

**WILLMAR PLANNING COMMISSION
CITY OF WILLMAR, MN
WEDNESDAY, JULY 23, 2014**

MINUTES

1. The Willmar Planning Commission met on Wednesday, July 23, 2014, at 7:00 p.m. at the Willmar Fire Hall Training Room-515 2nd St. SW.

**** Members Present:** Mark Klema, Randy Czarnetzki, Sandy Bebler, Bob Poe, Scott Thaden, Margaret Fleck, and Aaron Larson.

****Members Absent:** Gary Geiger, Andrew Engan.

**** Others Present:** Andrew Steil, Cathy Hedlof, Zack Liebl, Josh Thelen, Adam Hedlof, Gary Hedlof, Marshall Brinton, Peter Jaekel, Peter Blume, Bruce D. Peterson- Director Planning and Development Services, and Megan DeSchepper- Planner.

2. MINUTES: The minutes of the July 9, 2014 meeting were approved as submitted.

3. SPICHKE DOG GROOMING SALON HOME OCCUPATION CUP FILE # 14-07:
The public hearing opened at 7:03 p.m. Staff presented the request on behalf of Debra Spichke, for a home occupation dog grooming salon conditional use permit on property legally described as follows: Lot 16 excluding the northerly 25', Highland Addition to Willmar (319 Becker Ave. SE). The home occupation will take place in the basement, Ms. Spichke's daughter, Brenna, will do dog grooming, and Ms. Spichke will do bookkeeping. Both women reside at the home. There is adequate off-street parking in the driveway for three vehicles. And there will be no exterior modifications to the home or exterior storage of product.

No one appeared to speak for or against the request and the public hearing closed at 7:07 p.m.

Staff comments were reviewed and discussed (see Attachment A).

The Planning Commission talked about the rear yard and perhaps requiring fencing to ensure dogs are contained on the property. Barking dogs and animal waste were discussed. They talked about the hours of operation and what are generally acceptable hours in a residential setting.

Mr. Thaden made a motion, seconded by Ms. Bebler, to approve the home occupation conditional use permit with the following conditions:

- A. Home occupation signs require a sign permit separate from CUP approval.
- B. Hours of operation shall be limited to the hours of 8 a.m. to 8 p.m. on weekdays and 8 a.m. to 12:00 noon on Saturdays.

- C. The use shall meet all applicable local, state, and federal rules and regulations at all times.
- D. There shall be no exterior storage of animals or kenneling.

The Planning Commission made affirmative findings of fact as per Section 9.E.3.a.1-7.

The motion carried.

- 4. BRINTON MEDICAL MARIJUANA PRODUCTION LAB/DISPENSARY CUP FILE # 14-06: Marshall K. Brinton, DVM, Willmar, MN, presented his request for a conditional use permit for the operation of a medical marijuana production lab/dispensary on property legally described as follows: the east 168' of Government Lot 5 south of RR r-o-w AND the west 130' of the east 298' excluding the south 306' all in Government Lot 5 south of RR r-o-w (208 Lakeland Dr. SE). Dr. Brinton explained that his building was a veterinary vaccine lab until about a year ago when he retired and closed the lab. The building has been for sale since that time and is 15,000 sq. ft. with 6 laboratories with lab equipment still in place. When he read about the State of Minnesota's newly adopted medical marijuana law, he determined that his lab could do the work to extract the THC for the medicine production.

Dr. Brinton researched the state law and made the following salient points: Patients have to register for the medicine annually and only those with specified ailments qualify. The State will license two facilities and each of those two facilities will operate 3 dispensary sites. Security is required with closed circuit cameras inside and outside the facility and scan cards to enter the facility. The Minnesota Department of health will license and inspect the facility and set up independent testing of the product being produced. Each dispensary will be run by a licensed Pharmacist and all employees at each facility will have to pass an extensive background check. There are 20-30 parking spaces available for patients in the front of the building including handicapped accessible spaces. The facility is handicapped accessible. Employees could park on the rear/side of the property which could be expanded as needed. And finally, even if the City grants the conditional use permit there is no guarantee that the use will ever occur or that the state will license the facility for such a use.

The public hearing opened at 7:29 p.m.

Peter Jaekel, a Willmar resident, has lived in the community for 16 years and worked in the poultry vet center for Dr. Brinton for 10 years. He said he just wanted to let the Commission know that Dr. Brinton is a stand up professional with an excellent reputation and will follow all the rules and regulations.

Andrew Steil, an Attorney for Best Vet Services, spoke on behalf of his client, a nearby property owner with concerns regarding the proposed use. There is concern about how the use with the high security will negatively affect abutting property values. The current vacant building could be used for a multitude of uses, and the equipment could be sold as well. He said the proposal is simply a marketing ploy by the applicant. Mr. Steil

inquired what the safety plan will be. The whole process statewide is very preliminary at this point. There are some nearby residences in the area with children's play equipment in the yard etc. The facility could include growing of plants, production, and distribution. He asked the Commission does Willmar want to be known for allowing this.

With no further comment from the public, the hearing was closed at 7:35 p.m.

The Planning Commission reviewed and discussed staff comments (see Attachment A).

The Planning Commission reviewed the stipulations of the Statute. There is no school within 1000' of the property. Signage is regulated by the Zoning Ordinance as well as any regulation at the state level. Dr. Brinton stated he won't be operating the facility, but could partner with or sell to an entity that could apply for a license to grow, produce, and dispense out of the facility. They inquired about patient capacity. Dr. Brinton said the State estimates that there are 5,000 people in the entire State that would utilize the medicine.

Staff reviewed the matter via the land use perspective. Minnesota Department of Health will dictate the licensing and security. An argument for land values would have to have value studies/statistics from similar situations elsewhere to show a factual shift in values in other communities. The properties in the area are all zoned commercial or industrial; the two homes in the area are non-conforming uses.

The Commission discussed public safety concerns at the local level. They inquired if the cameras would be run by the company on site or a third party independent company. Dr. Brinton stated that the Statute did not specify the running of the cameras.

The Commission then talked about the use being no more dangerous or different than pharmacies where narcotic prescriptions are filled.

Mr. Czarnetzki made a motion, seconded by Ms. Fleck, to approve the conditional use permit with the following conditions:

- A. The property, owner/operator, and operation shall be in full compliance with the Statute and receive all approvals, licenses, authorizations, and certifications as required from the Department of Health and any other applicable regulatory agency.
- B. Any future occupant using the building for the proposed purpose shall come back to the Planning Commission for operational approvals (such as parking, hours of operation, security measures, signage etc.).
- C. The use shall meet all applicable local, state, and federal laws and regulations at all times.

Staff commented that the hours of operation and security measures could be removed from the conditions as the State will regulate that portion of the use.

Mr. Klema made a motion, seconded by Mr. Larson, to remove hours of operation, and security measures from condition letter B.

The motion carried.

The Planning Commission reviewed and made the following affirmative findings of fact as per Section 9.E.3.a.1-7.:

1. That the conditional use, with such conditions as the Commission shall determine and attach, conforms to the purpose and intent of this Ordinance, and is in conformity with the Comprehensive Land Use Plan of the City as the use will be a similar use to medical labs and pharmacies which are permitted in the General Business District.
2. That there was no factual demonstration of a substantial/appreciable negative impact on values to properties in the neighborhood from the proposed conditional use as no value studies were submitted.
3. The conditional use will not result in the destruction, loss, or damage of a natural, scenic, or historic feature of major importance to the community as the existing building is of no significance.
4. That the conditional use will not impede the normal and orderly development and improvement of the surrounding property for uses permitted in the district as zoned as the area is a fully developed neighborhood.
5. That adequate utilities, access roads, stormwater management, and other necessary facilities have been, or are being, provided as it's an existing facility and all utilities are already in place and functional.
6. That adequate measures have been, or will be, taken to provide ingress and egress in such a manner as to minimize traffic congestion and maximize public safety in the public streets as the street accesses and curb cuts are already existing and functional.
7. The conditional use will be designed, constructed, operated, and maintained in a manner that is compatible with the existing or intended character of the surrounding area/neighborhood as it is a fully built out area and all the buildings have co-existed and functioned commercially and industrially for some time.

The Commission further discussed that often times the applicant is the operator of the business, and that this is a unique request in that the applicant is trying to market the property for the use. Staff added that a conditional use, once approved, goes with the property and any future buyer can continue to operate the conditional use if they meet all the conditions.

Planning Commission members then talked further about security fencing, as the statute is vague on the security measures. They discussed the possible need for intrusion protection around the building and parking area. Then the aspect of image and quiet function vs. high security in the area was discussed, as well. The Commission talked about pharmacy regulations and security measures.

Mr. Thaden made a motion, seconded by Mr. Poe, to amend the original motion by adding letter D. as follows:

- D. Fencing shall be added around the perimeter of the building and parking lot as per the Zoning Ordinance of 7' high and barb wired with a gate that would only be open during operating hours.

The motion failed with all members voting no, save for Mr. Thaden who voted aye.

The original motion with the amendment to letter B. carried with all voting aye, save for Mr. Klema who voted no.

5. HEDLOF HOUSE MOVE PLAN REVIEW- FILE # 14-06: Adam Hedlof, Willmar, MN, presented a request for plan review for a house move onto a vacant parcel legally described as follows: Lots 5, 6, 7, & the southerly 5' of Lot 4, Block 2, Sunnyside (1204 7 ½ St. SW). The property is zoned R-2 (One and Two Family Residential). Mr. Hedlof plans on living in the home and putting on new siding, roofing, and windows. The rambler is of similar style to other homes in the neighborhood and will fit in well.

Staff comments were reviewed and discussed (see Attachment A).

Mr. Hedlof commented he would finish the dirt work this fall and continue to work on it as he lived in it.

Mr. Thaden made a motion, seconded by Ms. Bebler, to approve the plan review with the following conditions:

- A. The main floor elevations above finished grade shall be consistent with those of nearby houses.
- B. The deadline for completing all exterior work i.e. house exterior, driveway, sidewalk and landscaping shall be May 31, 2015.
- C. A performance bond or certified check in the amount of \$2,500 shall be submitted to the City (prior to issuance of a building permit) as security to ensure completion of the exterior work.
- D. The water and sewer hook-up plans shall be submitted for review and approval by the Engineering Department prior to issuance of a building permit.
- E. The use shall conform to all applicable local, state, and federal laws and regulations at all times.

The Planning Commission reviewed and made affirmative findings of fact in Zoning Ordinance Section 9.4.a.1-7.

The motion carried.

6. MISCELLANY- BEEKEEPING DISCUSSION CONTINUED: Mr. Larson made a motion, seconded by Mr. Poe, to take the matter off the table and open it up for Commission discussion.

The motion carried.

Beekeeping was further discussed in relation to nuisance and allergy concerns and the measurability and enforceability of bee nuisances. The Commission debated the option to do nothing and continue to omit the matter from regulation vs. limiting the number of hives, size, setbacks etc.

As requested by the Commission, Staff contacted the County Sanitarian and he does not regulate or license bee keeping. Staff also contacted the County Zoning Administrator, who said their Ordinance allows bee keeping and honey production as an Ag use and does not address it in any other way. Finally staff contacted the Willmar Police Department. They have only dealt with two bee complaints over the last five years and they both were in the same neighborhood.

Mr. Klema will contact some bee keeping organizations and will bring information from them to a future meeting for further discussion.

7. There being no further information to come before the Commission the meeting closed at 8:31 p.m.

Respectfully submitted,


Megan M. DeSchepper, AICP
Planner/Airport Manager

PLANNING COMMISSION-JULY 26, 2014

STAFF COMMENTS

1. SPICHKE DOG GROOMING SALON HOME OCCUPATION CUP FILE # 14-07:

- The applicant is Debra Spichke, Willmar, MN.
- The applicant is requesting a home occupation dog grooming salon conditional use permit on property legally described as follows: Lot 16 excluding the northerly 25', Highland Addition to Willmar (319 Becker Ave. SE).
- The property is zoned R-2 (One and Two Family Residential).
- The property is accessed via Becker Ave. SE.
- The dog grooming salon will operate in the basement and the business will be run by the applicant's daughter, Brenna Spichke, who also resides in the home. Debra will assist with the bookkeeping.
- The driveway has three off-street parking spaces, to accommodate two clients whose appointments overlap.
- No exterior changes will occur to the home, except for a sign which requires a separate permit and must follow the Zoning Ordinance size requirements.
- No exterior storage of materials or products will occur.
- Hours of operation?

RECOMMENDATION: Approve the conditional use permit with the following conditions:

- A. Home occupation signs require a permit separate from CUP approval.
- B. Hours of operation shall be limited to the hours of 8 am to 5 pm.
- C. The use shall meet all applicable local, state, and federal rules and regulations at all times.

2. BRINTON MEDICAL MARIJUANA PRODUCTION LAB/DISPENSARY CUP FILE # 14-06:

- The applicant is Marshall K. Brinton, DVM, Willmar, MN.
- The applicant is requesting a conditional use permit to market the use of an existing vacant building which was a veterinary vaccine production lab as a medical marijuana production lab/dispensary on property legally described as follows: the east 168' of Government Lot 5 S of RR r-o-w AND The west 130' of the east 298' excluding the s 306' all in government Lot 5 S of RR r-o-w (208 Lakeland Dr. SE).
- The Minnesota Department of Health will be selecting and registering a total of two manufacturers. And of those two manufacturers, each will be required to operate no more than four distribution facilities within the state. The applicant has not submitted an application with the State, nor does he have any state license or approvals. He plans on marketing his building for such a use and does not plan on operating the business himself, but first wanted to know if the City of Willmar would permit such a use at the property. There is no guarantee that an application with the Minnesota Department of health for this property would be approved.

- The property is zoned GB (General Business). The building is 13,640 sq. ft. in size. The lot is 58,050 sq. ft.
- The property is accessed via Lakeland Dr. SE.
- The state will be soliciting bids for medical cannabis manufacturers in late summer or fall of 2014. The Commissioner of Health will assess applications using several factors, including: technical expertise in growing cannabis and in making medicine in acceptable forms, qualifications of employees, financial condition, security precautions, and projected fees to patients.
- As the proposed use is not listed in any zoning district in the Zoning Ordinance, the conditional use permit process is required.
- There are no striped parking spaces on site; number of proposed employees and patients is unknown as the applicant would not be running the facility.
- Hours of operation are unknown.
- Building modifications required for State License would be increased security measures (cameras inside/outside etc.). The applicant is unaware of any other exterior modifications that may be required.
- Growing, production, and dispensing could all occur inside the facility.

RECOMMEDATION: approve the conditional use permit with the following condition:

- A. The property, owner/operator, and operation shall be in full compliance with the statute and receive all approvals, licenses, authorizations, certifications as required from the Department of Health and any other applicable regulatory agency.
- B. Any future occupant using the building for the proposed purpose shall come back to the Planning Commission for operation approvals (such as parking, hours of operation, security measures, signage etc.).
- C. The use shall meet all applicable local, state, and federal laws and regulations at all times.

3. HEDLOF HOUSE MOVE PLAN REVIEW- FILE # 14-06:

- The applicant is Adam Hedlof, Willmar, MN.
- The applicant is proposing to move a house to a vacant parcel legally described as follows: Lots 5, 6, 7, & the southerly 5' of Lot 4, Block 2, Sunnyside (1204 7 ½ St. SW).
- The applicant proposes moving a house from 1218 13th Ave. SW to his property at 1204 and residing the home etc. The home is a rambler, similar in style to other homes in the neighborhood.
- The applicant plans on living in the single family home.
- The property is zoned R-2 (One and Two Family Residential).
- The applicant proposes residing, reroofing, and installing new windows on the home.
- All the building setback requirements are met on the site plan. The driveway shall be setback a minimum of 5' from the north property line, not up to the property line as depicted on the site plan.

- The Planning Commission can assign a performance bond or other security to ensure that the exterior improvements are completed and done in a timely fashion.
- Water and sewer hook-ups and plan shall be submitted for review and approval by the Engineering Department prior to issuance of a building permit.

RECOMMENDATION: to approve the house move with the following conditions:

- A. The main floor elevations above finished grade shall be consistent with those of nearby houses.
- B. The deadline for completing all exterior work i.e. house exterior, driveway, sidewalk, landscaping, etc. shall be May 31, 2015.
- C. A performance bond or certified check in the amount of \$2,500 shall be submitted to the City (prior to the issuance of a building permit) as security to ensure completion of the exterior work.
- D. The water and sewer hook-up plans shall be submitted for review and approval by the Engineering Department prior to issuance of a building permit.
- E. The use shall at all times conform to all applicable local, state, and federal laws and regulations.